

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ALLEN PAYETTE,

Plaintiff,

v.

SHERIFF RANDY HOENISCH, BOB DICKMAN,  
SETH WISKOW, DENNIS ROTHERING,  
CARY PELLOWSKI, DEBRA GLEASON,  
SHEILA WESTCOTT, MICHAEL SCHAEFER  
and WILLIAM BEAUDRY,

Defendants.  
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ORDER

07-cv-242-bbc

This is a civil action for monetary relief brought pursuant to 42 U.S.C. § 1983 for violations of plaintiff's rights under the Eighth Amendment. On July 7, 2008, the Court of Appeals for the Seventh Circuit remanded this case because it found that there was "a genuine fact dispute whether defendants were deliberately indifferent to plaintiff's mental health needs" and "a triable dispute whether a search was conducted in a manner intended to humiliate him and inflict psychological pain."

Plaintiff has filed an amended complaint in which he recites facts related specifically to these Eighth Amendment claims and eliminates unrelated claims that were found on

appeal to have been properly denied. In light of the court of appeals' finding that plaintiff's claims now raised in the amended complaint state a claim upon which relief may be granted, I will allow the amendments under 28 U.S.C. § 1915A. As of today's date the amended complaint will be considered the operative pleading.

ORDER

IT IS ORDERED that pursuant to 28 U.S.C. § 1915A, plaintiff Allen Payette may proceed with his amended complaint that defendants Hoenisch, Dickman, Wiskow, Rothering, Pellowski, Gleason, Westcott and Schaefer were deliberately indifferent to his serious mental needs and that defendants Pellowski and Beaudry conducted a strip search in a manner intended to humiliate and inflict psychological pain on plaintiff in violation of his Eighth Amendment rights.

Entered this 24<sup>th</sup> day of November, 2008.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge